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10/675,814	09/30/2003	Joseph D. Krawczyk	46000-0001	6665

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EXAMINER

CHENEVERT, PAUL A

ART UNIT

PAPER NUMBER

3612

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/675,814

Applicant(s)

KRAWCZYK ET AL.

Examiner

Paul A. Chenevert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12 is/are allowed.
- 6) ☒ Claim(s) 13-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☒ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The listing of references in the specification (paragraphs 4 & 53) is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### ***Drawings***

2. The drawings are objected to because of the following minor informalities:
- a. Reference number "20" in Figure 2 should be changed to "21" (twice).
  - b. Reference number "36" (right occurrence) in Figure 5F should be changed to "136" and reference number "37" should be changed to "137".
  - c. Reference number "36" in Figure 5G should be changed to "136".
  - d. Reference number "33" in Figure 6B should be changed to "133", reference number "28" should be changed to "128", and reference number "29" should be changed to "129".
  - e. Reference number "34" in Figures 6C & 6D should be changed to "99", reference number "35" should be changed to "98", and reference number should be changed to "151".

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- f. Reference number “20” in Figure 9A should be changed to “21” (twice).
  - g. Reference number “10” in Figure 9B should be changed to “20” and reference number “20” should be changed to “21”.
  - h. Reference number “20” in Figure 11A should be changed to “121”
  - i. Reference number “12” in Figure 12 should be changed to “121”.
3. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Specification*

4. The disclosure is objected to because of the following informalities:
  - a. Paragraph 19, line 4, “11” should be added after “vending machines”.
  - b. Paragraph 22, line 6, “127” should be changed to “27”.
  - c. Paragraph 23, line 7, “tracker” should be changed to “tractor”.
  - d. Paragraph 25, line 11, “36, 37” should be changed to “136, 137”.
  - e. Paragraph 26, line 3, “A” should be deleted.
  - f. Paragraph 27, line 5, “31” should be changed to “131”.
  - g. Paragraph 28, line 7, “36, 37” should be changed to “136, 137”.
  - h. Paragraph 37, line 3, “, 24” should be deleted twice.
  - i. Paragraph 39, line 18, “127b” should be changed to “27”.
  - j. Paragraph 40, line 3, “26” should be changed to “126”.
  - k. Paragraph 40, line 6, “2” should be changed to “21”.
  - l. Paragraph 41, line 11, “125” should be changed to “123” and “L” should be changed to “181”.
  - m. Paragraph 42, line 4, “24” should be changed to “124”.
  - n. Paragraph 43, line 3, “31” should be changed to “131”.
  - o. Paragraph 44, lines 10 & 11, “31” should be changed to “131”.
  - p. Paragraph 45, line 6, “28” should be deleted.
  - q. Paragraph 45, line 9, “(Figure 5)” should be changed to “(shown as a broken chain line in Figure 5c)”.
  - r. Paragraph 47, line 12, “70” should be changed to “72”.

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- s. Paragraph 49, line 2, “22e” should be changed to “72e”.
- t. Paragraph 49, line 10, “31” should be changed to “131”.
- u. Paragraph 49, lines 10 & 11, “22” should be changed to “21”.
- v. Paragraph 50, line 4, “24” should be changed to “124”.
- w. Paragraph 51, line 3, “24” should be changed to “124”.
- x. Paragraph 51, line 4, “70” should be changed to “72”.
- y. Paragraph 52, line 4, “Figure 18” should be changed to “Figure 13”.
- z. Paragraph 52, line 6, “91” should be changed to “92”.
- aa. Paragraph 52, line 7, “92” should be changed to “91”.
- bb. Paragraph 53, line 1, “127” should be changed to “27”.
- cc. Paragraph 53, line 2, “22” should be changed to “21”.
- dd. Paragraph 54, line 1, “FIG. 14” should be changed to “FIG. 8A”.
- ee. Paragraph 55, line 3, “(shown in Figures 6A-6D)” should be inserted after “rails 98”.
- ff. Paragraph 55, lines 4 & 5, “127” should be changed to “27”.
- gg. Paragraph 56, line 3, “31” should be changed to “131”.
- hh. Paragraph 56, line 10, “34” should be deleted and “Figure 6B” should be changed to “Figure 6D”.
- ii. Paragraph 56, line 11 & 15, “99” should be changed to “98”.
- jj. Paragraph 56, lines 11 & 15, “134” should be changed to “99”.
- kk. Paragraph 57, lines 3, 6, & 8, “127” should be changed to “27”.
- ll. Paragraph 57, line 6, “131” should be changed to “151”.

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- mm. Paragraph 60, line 1, "Figure 12" should be changed to "Figure 14".
- nn. Paragraph 61, line 3, "26" should be changed to "126".
- oo. Paragraph 62, line 2, "70" should be changed to "22".
- pp. Paragraph 62, line 3, "carts 22" should be changed to "carts 21".
- qq. Paragraph 63, line 4, "as illustrated in Fig. 9A" should be deleted.
- rr. Paragraph 64, line 2, "58" should be changed to "158".
- ss. Paragraph 65, line 6, "23" should be changed to "123".
- tt. Paragraph 65, lines 9 & 10, "127" should be changed to "27".
- uu. Paragraph 67, line 7, "127" should be changed to "27".
- vv. Paragraph 69, lines 2 & 8, "casters 21" should be changed to "casters 29".
- ww. Paragraph 69, line 6, "Figure 10" should be changed to "Figure 12".
- xx. Paragraph 69, line 11, "Figure 9" should be changed to "Figure 11A".
- yy. Paragraph 71, line 6, "127" should be changed to "27".
- zz. Paragraph 72, line 1, "Figure 8A" should be changed to "Figure 10A".
- aaa. Paragraph 72, line 2, "57" should be changed to "157".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 13 & 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Armentrout.

Armentrout discloses a loaded transportation vehicle having an interior comprising: a floor supported by wheels; opposing side walls extending upwardly from the floor, said side walls equipped with tracks (channel bar 20) spaced above the floor; a rearwardly directed access; and a plurality of carts (mobile bins 1) having a product support member supported by rollers (swivel casters 3) and carried by a base frame (2); a rear side (bars 5) extending upwardly relative to the base frame, side closures extending upwardly relative to the base frame; and locking members (downwardly projecting hook 12) connected to the cart which are configured to cooperate with the tracks on the side walls of the transportation vehicle to selectively retain the carts in a desired position along the side walls. In regards to claim 16, the rollers (3) are caster wheels.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later



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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armentrout in view of Bates et al.

Armentrout discloses a loaded vehicle, as described above, having carts located along one of the sidewalls.

However, Armentrout does not expressly disclose that there is another row of carts along the opposite wall thus forming an aisle between the two rows.

Bates et al. disclose a loaded vehicle having two rows with an aisle between them, as described on column 1, lines 12-26, column 5, lines 1-13, and claim 7, line 5.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the loaded vehicle of Armentrout, to employ opposed rows, as taught by Bates et al.

The suggestion/motivation for doing so would have been to employ the total space of the deliver vehicle, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the loaded vehicle of Armentrout by adding another row to obtain the invention as specified in claim 14, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armentrout in view of Clarke et al.

Armentrout discloses a loaded vehicle, as described above, having caster wheels.

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However, Armentrout does not expressly disclose that the caster wheels have a lock selectively positionable to preclude normal movement of the cart.

Clarke et al. disclose a loaded vehicle (column 1, line 17) comprising a cart (display vehicle 10) having lockable (locking device means 40, 41) caster wheels (30, 31).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the loaded vehicle of Armentrout, to employ carts having lockable caster wheels, as taught by Clarke et al.

The suggestion/motivation for doing so would have been to ensure that the carts do not roll around after being secured to the sidewall tracks, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the loaded vehicle of Armentrout by combining locking means with the caster wheels to obtain the invention as specified in claim 15, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

11. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armentrout in view of Poth.

Armentrout discloses a loaded vehicle, as described above, having a cart supporting shipped products.

However, Armentrout does not expressly disclose that the shipped product could be first loaded on mini-pallets and then loaded onto the carts.

Poth discloses a loaded vehicle (cargo van 10) comprising carts (14) having mini-pallets (as shown in Figure 7) supporting shipped products.

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At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the loaded vehicle of Armentrout, to employ mini-pallets on the carts, as taught by Poth.

The suggestion/motivation for doing so would have been to simplify loading and unloading of the carts, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the loaded vehicle of Armentrout by combining mini-pallets with the carts to obtain the invention as specified in claim 17, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

12. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Armentrout in view of Mortenson.

Armentrout discloses a loaded vehicle, as described above, having a rearwardly directed access opening.

However, Armentrout does not expressly disclose that the vehicle has a common lift gate.

Mortenson discloses a loaded vehicle (truck T) having a common lift gate (10).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the loaded vehicle of Armentrout, to employ a lift gate, as taught by Mortenson.

The suggestion/motivation for doing so would have been to make unloading product easier, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the loaded vehicle of Armentrout by combining a lift gate with the vehicle to obtain the invention

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as specified in claim 18, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

13. Claims 19 & 20 are rejected under 35 U.S.C. 103(a) as being obvious over Armentrout, as modified, in view of Krawczyk et al. (US Patents 6,299,184 & 6,520,515 and US Applications 09/910235, 10/673855, & 10/675196).

14. The applied reference has a common inventor with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention "by another"; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

Armentrout, as modified, disclose a loaded vehicle, as described above, having an aisle.

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However, Armentrout, as modified, do not expressly disclose that the aisle terminates at a ramp or within the transportation vehicle, and a bulk pallet area is located intermediate the aisle and a front wall of the transportation vehicle.

Krawczyk et al. disclose the ramp and bulk pallet area in copending applications and patents.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the loaded vehicle of Armentrout, as modified, to employ these aisle features, as taught by Krawczyk et al.

The suggestion/motivation for doing so would have been to allow unloading the carts easier and to allow for a more flexible transportation vehicle, as is desired in this vehicle invention.

Therefore, it would have been a desirable and thus a prima facie obvious modification of the Armentrout, as modified, by combining aisle features with the loaded vehicle to obtain the invention as specified in claims 19 & 20, as taught by the prior references' motivation, and not hindsight from the applicants disclosure.

***Allowable Subject Matter***

15. Claims 1-12 are allowed.

16. The following is an examiner's statement of reasons for allowance: the prior art does not show or make obvious Applicant's carts having upwardly projecting rear side lock members with lock fittings.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Chenevert whose telephone number is 703-305-0837. The examiner can normally be reached on Mon-Fri (8:30-5:00).


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn D. Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paul A. Chenevert  
Examiner  
Art Unit 3612

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DENNIS H. PEDDER  
PRIMARY EXAMINER

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